

northeast, northwest, southeast, east, southeast, northeast, north, northeast, and east along the southern boundary line of the San Bernardino National Forest to its intersection with U.S. Interstate 15; then northeast on U.S. Interstate 15 to its next intersection with the San Bernardino National Forest boundary line; then northwest, north, northeast, southeast, east, northeast, southeast, and east along the San Bernardino National Forest boundary line to its intersection with Palm Avenue; then southwest on Palm Avenue to U.S. Interstate 215; then southeast on U.S. Interstate 215 to University Parkway; then southwest on University Parkway to N. State Street; then south on N. State Street to State Highway 210; then west on State Highway 210 to the Southern Pacific railroad track; then south, southwest, south, and southeast along the Southern Pacific railroad track to its intersection with W. Base Line Street; then west on W. Base Line Street to N. Pepper Avenue; then south on N. Pepper Avenue to State Highway 66; then west on State Highway 66 to N. Cactus Avenue; then south on N. Cactus Avenue to W. Rialto Avenue; then west on W. Rialto Avenue to W. Arrow Boulevard; then west on W. Arrow Boulevard to Arrow Boulevard; then west on Arrow Boulevard to Cherry Avenue; then north on Cherry Avenue to State Highway 66; then west on State Highway 66 to East Avenue; then north on East Avenue to the point of beginning.

[58 FR 8521, Feb. 16, 1993, as amended at 60 FR 18728, Apr. 3, 1995; 62 FR 45142, Aug. 26, 1997; 62 FR 47552, Sept. 10, 1997; 62 FR 53225, Oct. 14, 1997; 63 FR 16878, Apr. 7, 1998; 64 FR 31964, June 15, 1999; 64 FR 52214, Sept. 28, 1999; 64 FR 55812, Oct. 15, 1999; 65 FR 26488, May 8, 2000; 66 FR 46366, Sept. 5, 2001; 69 FR 56159, Sept. 20, 2004; 69 FR 67042, Nov. 16, 2004; 70 FR 10862, Mar. 7, 2005; 70 FR 11112, Mar. 8, 2005; 71 FR 66832, Nov. 17, 2006]

**§ 301.93-4 Conditions governing the interstate movement of regulated articles from quarantined areas.**

Any regulated article may be moved interstate from a quarantined area

only if moved under the following conditions:<sup>2</sup>

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.93-5 and 301.93-8 of this subpart;

(b) Without a certificate or limited permit, if:

(1) The regulated article originated outside of any quarantined area and is moved directly through (without stopping except for refueling, or for traffic conditions, such as traffic lights or stop signs) the quarantined area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Oriental fruit flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

(c) Without a certificate or limited permit, if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the permit and found by the Administrator to be adequate to prevent the spread of Oriental fruit fly; and

(4) With a tag or label bearing the number of the permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container.

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**§ 301.93-5 Issuance and cancellation of certificates and limited permits.**

(a) An inspector<sup>3</sup> will issue a certificate for the interstate movement of a

<sup>2</sup>Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

<sup>3</sup>Inspectors are assigned to local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories. Information concerning these offices

regulated article if the inspector determines that:

(1) (i) The regulated article has been treated in accordance with § 301.93-10 of this subpart; or

(ii) Based on inspection of the premises of origin, or treatment of the premises of origin in accordance with § 301.93-10(c) of this subpart, the premises are free from Oriental fruit flies and the regulated article has not been exposed to Oriental fruit fly; or

(iii) Based on inspection of the regulated article, it is free of Oriental fruit fly; and

(2) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>4</sup> to prevent the spread of the Oriental fruit fly; and

(3) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the Oriental fruit fly because life stages of the Oriental fruit fly will be destroyed by the specified handling, utilization, or processing.

(2) The regulated article is to be moved interstate in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>4</sup> to prevent the spread of the Oriental fruit fly; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for use for interstate movement of regulated articles may be issued by an inspector or person engaged in growing, handling, or moving regulated articles provided the person is operating under a compliance agreement. A person operating under a compliance agreement may execute a certificate for the interstate movement of a regulated article if an inspector has determined that the regulated article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may execute a limited permit for interstate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn by an inspector orally or in writing, if the inspector determines that the holder of the certificate or limited permit has not complied with all conditions under this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a

may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.

<sup>4</sup>An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

## § 301.93-6

hearing will be adopted by the Administrator.

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[58 FR 8521, Feb. 16, 1993, as amended at 59 FR 67609, Dec. 30, 1994; 66 FR 21053, Apr. 27, 2001]

### § 301.93-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the interstate movement of regulated articles under this subpart.<sup>5</sup>

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing shall be adopted by the Administrator.

[58 FR 8521, Feb. 16, 1993, as amended at 59 FR 67609, Dec. 30, 1994]

### § 301.93-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or lim-

<sup>5</sup>Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, and from local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories.

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ited permits under § 301.93-5(c)), who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector<sup>6</sup> as far in advance of the desired interstate movement as possible (but no less than 48 hours before the desired interstate movement).

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

### § 301.93-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during the interstate movement, must be attached to the outside of the container containing the regulated article, attached to the regulated article itself if not in a container, or attached to the consignee's copy of the accompanying waybill: *Provided however*, That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill only if the regulated article is sufficiently described on the certificate, limited permit, or waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

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### § 301.93-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

### § 301.93-10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy the Oriental fruit fly are approved for use on

<sup>6</sup>See footnote 3 at § 301.93-5(a).